THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 30568 of 1997

Dated: 21.08.2006

Between:

P.R.C. Reddy, S/o Sathi Reddy, Driver, E.No.800097, R/o Patancheru, Medak District.

.... PETITIONER

AND

A.P. State Road Transport Corporation, rep. by its Managing Director, Musheerabad, Hyderabad and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.30568 of 1997

Order:

Questioning the show cause notice dated 17.10.1997 issued by the 2nd respondent, wherein the petitioner was directed to show cause as to why his regularization orders should not be cancelled and the proceedings dated 14.05.1997 be implemented, the present writ petition is filed.

The petitioner is working as a Driver in the respondent-A.P.S.R.T.C. He was charge sheeted on 02.11.1996 alleging that the bus driven by him met with an accident on 14.09.1996. The petitioner submitted his explanation denying the said charges. Thereafter, the Enquiry Officer, having conducted an enquiry, held the charges proved. Based on the findings of the enquiry report, a notice, dated 15.03.1997, calling upon the petitioner to show cause as to why the proposed punishment of postponement of his regularization of services for a period of one year besides recovering an amount of Rs.1000/- towards costs of damage to the bus shall not be imposed, was issued. The petitioner did not reply to the said show cause notice. Therefore, the 2nd respondent, namely the Depot Manager, issued the proceedings dated 14.05.1997 imposing the punishment of postponement of regularization of services of the petitioner for a period of one year besides recovering an amount of Rs.1,000/- from the salary of the petitioner towards costs of damage to the bus. Subsequently, ignoring the said orders, the respondents regularized the services of the petitioner along with other employees with effect from 31.07.1997, by order dated 29.08.1997. Thereafter, noticing the said mistake, the 2nd respondent issued the

impugned show cause notice calling upon the petitioner to show cause as to why his regularisation should not be cancelled. Questioning the said show cause notice, the petitioner filed the present writ petition.

The main contention advanced by the learned counsel for the petitioner is that the respondents-Corporation, having regularized the services of the petitioner, now cannot issue the impugned show cause notice calling upon him to show cause as to why his regularization should not be cancelled. He further submits that the 2nd respondent, namely the Depot Manager, has already recovered penalty of Rs.1,000/- from the salary of the petitioner, and so deferment of regularization amounts to double punishment, which is not permissible in law.

On the other hand, learned Standing Counsel for the respondents-Corporation submits that the 2nd respondent, namely the Depot Manager, vide his orders dated 14.05.1997 imposed punishment of postponement of regularisation of services of the petitioner for a period of one year, and ignoring the said orders, the officers of the respondents-Corporation regularized the services of the petitioner along with other employees with effect from 31.07.1997, by order dated 29.08.1997, and to rectify the said mistake, the 2nd respondent, namely the Depot Manager, issued the impugned show cause notice. He further submitted that the amount of Rs.1000/- collected from the petitioner is towards costs of damage to the bus, and hence, it cannot be said that the punishment of deferment of regularization amounts to double punishment.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Corporation.

The contention of the learned counsel for the petitioner that imposing penalty of Rs.1,000/- and deferment of regularization amounts to double punishment cannot be accepted for the reason that the amount of Rs.1,000/- was collected from the salary of the petitioner towards costs of damage caused to the bus, which cannot be said to be a

penalty.

Insofar as the impugned show cause notice, calling upon the petitioner to show cause as to why his regularization should not be cancelled, is concerned it is clear from the contention of the learned Standing Counsel for the respondents-Corporation that the 2nd respondent, namely the Depot Manager, vide his orders dated 14.05.1997 imposed punishment of postponement of regularisation of services of the petitioner for a period of one year, and ignoring the said orders, the officers of the respondents-Corporation regularized the services of the petitioner along with other employees with effect from 31.07.1997, by order dated 29.08.1997, and to rectify the said mistake, the 2nd respondent, namely the Depot Manager, issued the impugned show cause notice. The law is well settled that a writ petition against a show cause notice is not maintainable. In **K.M. Safiullah v. A.P. State Wakf Board**[1], this Court held:

> The writ Court would not ordinarily interfere at the stage of show cause notice for it favours the quasi-judicial authority vested with the power to exercise and discharge its statutory functions with a free hand, independent from outside control. When a statutory authority issues a show cause notice, the recipient of the show cause notice has ample opportunity to approach the quasi-judicial authority to place his/her case before such authority that will decide in accordance with law. If any order passed by the quasi-judicial authority goes against the person, it is always open to such person to avail the remedy of appeal and then approach this Court under Article 226 of the Constitution, if it is permissible under law. A writ petition against a show cause notice is, ordinarily, not maintainable.

In view of the above, the only option available to the petitioner is to submit his reply to the show cause notice. The petitioner may submit his reply to the show cause notice, within a period of four weeks from the date of receipt of a copy of this order, and he is at liberty to take all the grounds, which he had taken in this writ petition. The authority concerned, shall consider the grounds, which the petitioner may take in his reply, and pass appropriate orders thereon, within a period of six weeks from the date of submission of reply by the petitioner. In the event, the authority concerned after considering the grounds of the

petitioner in the reply, passes an order, which goes adverse to the petitioner, then the petitioner is at liberty to assail the same in appropriate proceedings.

With the above directions, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 21.08.2006
Nsr/Ksr

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[1] 2003 (2) ALT 253